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SERVICE DATE - AUGUST 26, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 562X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--IN
ROCKY MOUNT, NASH COUNTY, NC

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: August 25, 1998

By decision served on August 11, 1998, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by CSX Transportation, Inc. (CSXT), of a 0.60-mile portion of its Florence Service Lane, North End Subdivision, extending from Valuation Station 4+30 at Falls Road to Valuation Station 36+00 at the end of the track near Earl Street, in Rocky Mount, Nash County, NC, subject to environmental and standard employee protective conditions.¹ The exemption was scheduled to become effective on September 10, 1998, unless an offer of financial assistance (OFA) was filed on or before August 21, 1998.

On August 21, 1998, New Southern of Rocky Mount, Inc. (NSRM),² timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the line for \$17,477.28.

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and that the offer is reasonable. Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981).

NSRM submits as Appendix 1 of its OFA a copy of a bank statement issued by BB&T³ showing that L&S had \$679,065.31 on deposit as of July 31, 1998, and states that L&S currently

¹ Notice was published in the Federal Register on May 13, 1998 (63 FR 26675).

² NSRM is a wholly owned subsidiary of L&S Holding Company (L&S). Woodland Farms (WF) and Laurinburg and Southern Railroad Company (LSRC) are divisions of L&S. In the petition for exemption CSXT filed on April 23, 1998, CSXT stated that WF, through an affiliated company, was interested in purchasing NSRM, and that WF would be interested in purchasing the line if it acquired NSRM. However, NSRM indicates that the petition was not accurate in that respect because L&S already owned all of the common stock of NSRM at the time CSXT filed its petition and that NSRM would be the acquirer of the line.

³ According to NSRM, the statement erroneously describes the name of L&S as L&R Holding Company.

has approximately the same balance in the account. NSRM contends that its parent company has more than sufficient funds on deposit to acquire and operate the line and avers that L&S has authorized it to state that L&S guarantees its payment of the purchase price offered in this OFA. The financial information submitted shows that NSRM is a financially responsible entity. NSRM states that there is no disparity between its offer and the rail carrier's estimated value of the line.⁴

Because NSRM, a financially responsible entity, has offered financial assistance, the effective date of the exemption authorizing abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$14,600. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of the proceeding, along with the words "Attention: Application Unit, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. The effective date of the decision authorizing abandonment is postponed in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.

2. If CSXT and NSRM cannot agree on the purchase price of the line, either party may request the Board to establish the terms and conditions of the purchase on or before September 21, 1998. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment authorization to become effective.

⁴ NSRM indicates that, as noted in a letter to the Board dated May 4, 1998, CSXT furnished information to WF concerning CSXT's estimate of the net liquidation value of the line. NSRM states that the amount in the OFA is the same as the rail carrier's estimated value.

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3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary